

\_\_\_\_\_  
Full Name of Party Filing Document

\_\_\_\_\_  
Mailing Address (Street or Post Office Box)

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone

IN THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT  
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_,  
Petitioner,  
vs.  
\_\_\_\_\_,  
Respondent.

Case No. \_\_\_\_\_

FAMILY CASE RESPONSE AND  
COUNTERCLAIM (WITH CHILDREN)

Fee Categories: \_\_\_\_\_  
Filing Fee: \$ \_\_\_\_\_

(Your name) \_\_\_\_\_, for his/her Response to the \_\_\_\_\_

\_\_\_\_\_, states:

1. I completely agree with and admit the following paragraphs (list each paragraph number):

\_\_\_\_\_  
\_\_\_\_\_

2. I admit the portion of paragraph \_\_\_\_, that states: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ and I deny everything else in that paragraph.

3. I admit the portion of paragraph \_\_\_\_, that states: \_\_\_\_\_

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\_\_\_\_\_ and I deny everything else in that paragraph.

4. I deny the following paragraphs because I do not have enough information to admit or deny them (list each paragraph number): \_\_\_\_\_

5. I completely disagree with and deny everything I do not admit.

6. The following child/ren under the age of 18, or 19 and still pursuing a high school education, was/were born to or adopted by the parties:

Name

Date of Birth

Current Address

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☐ Wife is not now pregnant.

☐ Wife is now pregnant with a child expected to be born \_\_\_\_\_

7. Our child/ren have lived with the following persons in the following places within the last five years:

Name of Person	City and State	Time Period (mm/yr – mm/yr)	Child's Name if not all children

The names and current addresses of each non-parent our children have lived with during the last 5 years are: \_\_\_\_\_

\_\_\_\_\_

8. I have not participated as a party or witness, in a different case involving our child/ren. **or**

☐ I have participated as a party or witness in the following different case involving our children (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): \_\_\_\_\_

\_\_\_\_\_

9. I do not know of a different case that could affect our child/ren. **or**

☐ The following different case could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): \_\_\_\_\_

\_\_\_\_\_

10. Other than the parents, no one has or claims custody or visitation rights with our child/ren. **or**

☐ In addition to the parents, the following person/s have or claim custody or visitation for our child/ren (list names and addresses): \_\_\_\_\_

\_\_\_\_\_

11. ☐ I want the Petition dismissed.

**AFFIRMATIVE DEFENSE(S).**

(State each affirmative defense that applies in a separate paragraph - see I.R.F.L.P. 208(C))

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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COUNTERCLAIM.

The Respondent/Counterclaimant says:

1. **Residence of the Parties.** I am now and have been a resident of the state of Idaho for at least six (6) full weeks prior to the filing of this action. Respondent is currently a resident of the State of \_\_\_\_\_.
2. **Marriage of the Parties.** The parties were married at (city) \_\_\_\_\_, (state) \_\_\_\_\_ on (month, day, year) \_\_\_\_\_, and are still Husband and Wife.
3. **Grounds for Divorce.** Irreconcilable differences exist between the parties.
4. **Minor Child/ren of the Parties.** The following child/ren under the age of 18 years, or 19 years and still pursuing a high school education, was/were born to or adopted by the parties:

Name

Date of Birth

Current Address

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☐ Wife is not now pregnant.

☐ Wife is now pregnant with a child expected to be born \_\_\_\_\_.

5. **UCCJEA Jurisdiction.** This court has jurisdiction to determine custody of our child/ren under the Uniform Child Custody Jurisdiction and Enforcement Act, Idaho Code § 32-11-101, et seq., because each child has resided in Idaho for at least six consecutive months before the filing of this Petition or for their entire life if they are less than six months of age.

**a. Living Arrangements Last 5 years.** Our child/ren have lived with the following persons in the following places within the last five years:

Name of Person	City and State	Time Period (mm/yr-mm/yr)	Child's Name if not all children

The names and current addresses of each non-parent our children have lived with during the last 5 years are: \_\_\_\_\_

**b. Participation in Other Cases.** ☐ I have NOT participated as a party or witness, in a different case involving our child/ren. **or**

☐ I have participated as a party or witness in the following different case involving our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): \_\_\_\_\_

**c. Other Cases Affecting Child/ren.** ☐ I do NOT know of a different case that could affect our child/ren. **or**

☐ The following different case that could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): \_\_\_\_\_

**d. Custody/Visitation.** ☐ Other than the parents, no one has or claims custody or visitation rights with our child/ren. **or**

☐ In addition to the parents, the following person/s have or claim custody or visitation for our child/ren (list names and addresses): \_\_\_\_\_

**6. Legal Custody.**

- ☐ It is in the best interest of our child/ren that we be awarded joint legal custody. **or**
- ☐ It is in the best interest of our child/ren that (name) \_\_\_\_\_ be awarded sole legal custody of the child/ren because \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**7. Physical Custody.**

- ☐ It is in the best interest of our child/ren that we be awarded joint physical custody of our child/ren
- ☐ on the terms and according to the Parenting Plan, which is attached as Exhibit A.
- or**
- ☐ as follows: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- or**
- ☐ (name) \_\_\_\_\_ should be awarded sole physical custody of our child/ren because \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_ **and**
- ☐ (name) \_\_\_\_\_ should spend time with our child/ren as follows: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**8. Child Support.**

- ☐ Child support has already been set **and** ☐ Petitioner asks it continue as shown by the attached Order, Exhibit B (if checked, skip to section 9), **or** ☐ there has been a substantial and material change in circumstances and the amount of child support should be changed and the order issued by this Court should control. **and/or**
- ☐ Child support should be paid by (name) \_\_\_\_\_ based on the Idaho Child Support Guidelines, according to the Affidavit Verifying Income and Child Support Worksheet(s) attached as Exhibit B. The basic child support is (see child support worksheet) \$\_\_\_\_\_.

Child support payments should begin on the \_\_\_\_\_ day of the month after the Decree of Divorce is signed and continue to be paid on the same day of each following month until the child/ren for whom support is being paid reach/es the age of eighteen. If a child for whom support is being paid continues his/her high school education after reaching the age of eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to Idaho Child Support Receipting, P.O. Box 70008, Boise, ID 83707-0108.

#### Notice

The court is required to order income withholding in all child support orders. Income withholding is enforced by a withholding order issued to the paying parent's employer without additional notice to the paying parent, according to Idaho Code Section 32-1204. The support order can also be enforced by license suspension or the filing of a lien upon all real and personal property of the paying parent.

**a. Multiple Children.** (if applicable)

☐ We have more than one minor child. If this child support order has not been modified, when one child is no longer entitled to support, basic child support for the remaining child/ren should continue in the amount of \$\_\_\_\_\_ per month; when two children are no longer entitled to support, basic child support for the remaining child/ren should continue in the amount of \$\_\_\_\_\_ per month; when three children are no longer entitled to support, basic child support for the remaining child should continue in the amount of \$\_\_\_\_\_ per month.

**b. Extended Visits.** (if applicable)

☐ Our child/ren live/s in the home of one parent at least 75% of the time. (If selected, check the boxes below that apply. Otherwise, go to the next section.)

☐ When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of basic child support should be reduced for that period of time. However, visitation of two overnights or less with the other parent should not eliminate the reduction of basic child support during extended visits. The child support reduction for the period of the actual physical custody should be ☐ 50% or ☐ (Other percentage) \_\_\_\_\_% of the basic child support obligation. The reduction should be subtracted from the child support payment due the month following the extended visit.

☐ If the parent paying child support has physical custody of some but not all of the children for a period of 14 overnights in a row, before a reduction is made, the basic child support obligation should first be divided by the number of children under 18 years of age. The parent who pays child support can only claim a reduction for the child/ren in that parent's custody.

For Example—Parent has 3 of 4 children for 14 overnights. \$300/mo. basic support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.

**c. Work-Related Childcare Expenses. (Basic child support does not include work-related childcare.)**

☐ Basic child support does not include work-related childcare. The actual net out-of-pocket costs for work-related child care should be paid \_\_\_\_\_% by Father and \_\_\_\_\_% by Mother. Payment should be made directly to the child care provider by both parents according to arrangements made with the care provider if permitted by the care provider. Otherwise, if one parent pays the child care provider any portion of the other parent's share of costs, the non-paying parent should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and proof of payment.

**d. Medical, Dental, and/or Optical Insurance.**

- ☐ (name) \_\_\_\_\_ is/are currently providing health insurance for the minor child/ren and should continue to do so, so long as it is reasonably available through that parent's employment. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain group health insurance through employment should do so. **or**
- ☐ Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain group health insurance through employment should do so. ☐ Any future health insurance premiums for the child/ren should be prorated between the parents.
- ☐ The child/ren participate/s in the Children's Health Insurance Program (CHIP) of Medicaid. The parent first reasonably able to obtain group health insurance through employment should do so.

Where medical insurance is provided, each parent should be ordered to provide the other with all medical insurance information necessary to obtain health care and process insurance claims for the child/ren. Insurance proceeds should be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs.



Both parents should be ordered to sign any needed document that provides continuing health care for the child/ren.

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

**e. Health Care Costs.** The actual cost paid by either parent for health care expenses for the child/ren not paid in full by insurance, including, but not limited to, insurance premiums, orthodontic, optical and dental, should be prorated between the parents. Father should pay \_\_\_\_\_ % and Mother should pay \_\_\_\_\_. Any health care for the child/ren (whether for psychiatric, psychological, special education, addiction treatment, or counseling in any form, and including regular medical or dental care), whether or not covered by insurance, that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, must be approved in advance, in writing, by both parents or by prior court order. **(Note:** The court may consider whether consent for out-of-pocket expenses in excess of \$500 was unreasonably requested or withheld and order payment of the incurred expense in some percentage other than the Guidelines Income.)

☐ The child support payment should include an adjustment for each parent's share of health insurance costs. All other health care payments are in addition to the basic child support award and should be promptly paid or reimbursed directly between the parents. **or**

☐ All health care payments should be in addition to the basic child support award and should be promptly paid or reimbursed directly between the parents.

**f. Tax Benefits & Exemptions.**

**Note:** The parent not receiving the exemption(s) should sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

☐ The state and federal income tax dependency exemptions for the child/ren should be assigned to \_\_\_\_\_ (mother or father) who has the greatest tax benefit calculated under the Idaho Child Support Guidelines (see tables in Section 8(c) of the Idaho Child Support Guidelines). The parent not receiving the exemption(s) should be

awarded a pro rata share of the value of income tax benefit in proportion to his/her guidelines income which should be either a credit against or in addition to the basic child support obligation.

☐ We agree to a different allocation of federal and state income tax dependency exemptions for our minor child/ren. A written document signed by both parents will be submitted to the court.

**g. Summary of Basic Child Support and Adjustments:**

**Basic Child Support Amount**

Pick one:

☐ Mother should pay \$ \_\_\_\_\_  
☐ Father should pay \$ \_\_\_\_\_

**Health Insurance Premiums**

Monthly cost for children \$ \_\_\_\_\_

Mother pays % \_\_\_\_\_

Father pays % \_\_\_\_\_

Costs should be: (Pick one)

☐ paid directly between parents  
☐ added to or subtracted from basic child support +/- \$ \_\_\_\_\_

**Tax Benefits**

☐ Mother **or** ☐ Father should claim tax benefits

Mother's share % \_\_\_\_\_

Father's share % \_\_\_\_\_

Basic child support increased or decreased by +/- \$ \_\_\_\_\_

If the parents agree to something different, a written document signed by both parents must be submitted to the court.

**Total Basic Child Support Amount with adjustments** \$ \_\_\_\_\_

**Additional Costs**

Work-related Daycare

Pay directly to the provider if permitted or reimbursements should be made directly between parents.

Mother pays % \_\_\_\_\_

Father pays % \_\_\_\_\_

**9. Other Minor Child/ren, NOT of Both Parties.**

☐ No party is the parent of any other minor child/ren born during the marriage and Wife is not now pregnant. **or**

☐ Wife is pregnant, but Husband is not the father of the child expected to be born on (date) \_\_\_\_\_. **and/or**

☐ Husband is not the father of the following child/ren born to Wife during the marriage:

(write full name/s and date/s of birth) \_\_\_\_\_

**10. Separate Property.** (Land and/or Personal Property)

☐ None. **or**

☐ Prior to or during the marriage, the Husband acquired the separate property listed on the attached **Exhibit C**. That property should be confirmed as the Husband's separate property. Wife should be ordered to return to Husband any such property in Wife's possession. **and/or**

☐ Prior to or during the marriage, the Wife acquired the separate property listed on the attached **Exhibit D**. That property should be confirmed as the Wife's separate property. Husband should be ordered to return to Wife any such property in Husband's possession.

**11. Community Real Property.** (Land) During the marriage, the Wife and Husband acquired:

☐ no community real property. **or**

☐ community real property located at (address) \_\_\_\_\_, in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Idaho. This real property is described in the deed as follows: \_\_\_\_\_

The real property described above should be:

☐ Ordered sold and the net proceeds divided \_\_\_\_% to the Wife and \_\_\_\_% to the Husband. **or**

☐ Awarded to the Wife, subject to any liens, and the Husband should be ordered to convey his interest in the property to the Wife when she pays him \$\_\_\_\_\_ for his equity in the property. **or**

☐ Awarded to the Husband, subject to any liens, and the Wife should be ordered to convey her interest in the property to the Husband when he pays her \$\_\_\_\_\_ for her equity in the property. **or**

☐ Other \_\_\_\_\_

**12. Community Personal Property.** During the marriage, the Wife and Husband acquired:

- ☐ No community personal property. **or**
- ☐ Community personal property has already been divided. The property should be awarded to the party who presently has possession. **or**
- ☐ Community personal property listed on Exhibit C and/or D. It would be fair for the court to award to the Husband, as his sole and separate property, the community property described in Exhibit C. **and/or**
- ☐ Community personal property listed on Exhibit C and/or D. It would be fair for the court to award to the Wife, as her sole and separate property, the community property described in Exhibit D.

The court should order each party to deliver to the other any of the community personal property currently in his/her possession that is awarded to the other party. The court should also order each party to sign and deliver any documents necessary to carry out the property division.

**13. Debts.**

- ☐ The Petitioner has no knowledge of any unpaid debts. **or**
- ☐ It would be fair for the court to order the Husband to pay the following debts as or before they become due and to order the Husband to hold the Wife harmless for any further liability concerning these debts: (List each creditor below) **and/or**

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- ☐ It would be fair for the court to order the Wife to pay the following debts as or before they become due and to order the Wife to hold the Husband harmless for any further liability concerning these debts: (List each creditor below)

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- 14. ☐ Debts Incurred Since Separation.** The parties have been separated since (date) \_\_\_\_\_. It would be fair for the court to order that each party will assume

any debt incurred by that party since the date of separation. The court should order each party to pay those debts as or before they become due and to hold the other party harmless from any obligation concerning those debts.

15. ☐ **Name Change.** \_\_\_\_\_ should be restored to the former last name of \_\_\_\_\_.

**WHEREFORE**, Counterclaimant asks for judgment as requested above.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Respondent

SUBSCRIBED AND SWORN before me on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public for Idaho

Residing at \_\_\_\_\_

Commission expires \_\_\_\_\_

## CERTIFICATE OF SERVICE

I certify that on (date) \_\_\_\_\_ I served a copy to: (name all parties in the case other than yourself)

\_\_\_\_\_  
(Name)

☐

By mail

☐

By fax (number) \_\_\_\_\_

☐

By personal delivery

\_\_\_\_\_  
(Street or Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

\_\_\_\_\_  
(Name)

☐

By mail

☐

By fax (number) \_\_\_\_\_

☐

By personal delivery

\_\_\_\_\_  
(Street or Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

\_\_\_\_\_  
Typed/printed name

\_\_\_\_\_  
Signature

**REMOVE THIS PAGE AND**

**ATTACH (staple) PARENTING PLAN  
AND  
LABEL AS "EXHIBIT A"**

**ATTACH (staple) AFFIDAVIT VERIFYING INCOME AND CHILD SUPPORT WORKSHEET(S)  
AND  
LABEL AS "EXHIBIT B"**

**ATTACH (staple) HUSBAND'S PROPERTY LIST  
AND  
LABEL AS "EXHIBIT C"**

**ATTACH (staple) WIFE'S PROPERTY LIST  
AND  
LABEL AS "EXHIBIT D"**

**IF APPLICABLE, ATTACH (STAPLE) THE ORDER WHICH SETS CHILD SUPPORT IN A  
DIFFERENT CASE WITH THE DEPARTMENT OF HEALTH AND WELFARE  
AND LABEL AS "EXHIBIT B"**

**HUSBAND'S SEPARATE PROPERTY**

(Describe each item, including a legal description for real property)

**PERSONAL COMMUNITY PROPERTY IN HUSBAND'S POSSESSION TO BE AWARDED TO**

**HUSBAND**

(Describe each item)

**PERSONAL COMMUNITY PROPERTY IN WIFE'S POSSESSION TO BE AWARDED TO**

**HUSBAND**

(Describe each item)

**EXHIBIT C**

\_\_\_\_\_  
initials      date



**WIFE'S SEPARATE PROPERTY**

(Describe each item, including a legal description for real property)

**PERSONAL COMMUNITY PROPERTY IN WIFE'S POSSESSION TO BE AWARDED TO**

**WIFE**

(Describe each item)

**PERSONAL COMMUNITY PROPERTY IN HUSBAND'S POSSESSION TO BE AWARDED TO**

**WIFE**

(Describe each item)

\_\_\_\_\_  
initials      date

**EXHIBIT D**